

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ABDUL AL-HAKEEM AFIZ)	
a/k/a MIRON TAYLOR,)	
)	
Petitioner,)	
)	
v.)	No. 4:09-CV-866-MLM
)	
DAVE DORMIRE,)	
)	
Respondent.)	

MEMORANDUM AND ORDER OF TRANSFER

Petitioner, Abdul al-Hakeem Afiz a/k/a Miron Taylor is an inmate at the Jefferson City Correctional Center. He seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on the grounds of ineffective assistance of counsel and violation of his right to a speedy trial.

On May 18, 2000, petitioner was convicted in the Circuit Court of the City of St. Louis, Missouri, of first-degree murder and armed criminal action. On June 30, 2000, the trial court sentenced him to concurrent terms of life without the possibility of parole and twenty years.

The Court's records show that petitioner has previously brought a § 2254 petition for writ of habeas corpus challenging his May 18, 2000 conviction. See Taylor v. Dormire, No. 4:06-CV-426-JCH (E.D.Mo.). The § 2254 action was dismissed on the merits.

Title 28 U.S.C. § 2244(b)(3)(A) provides that "[b]efore a second or successive application permitted by this section is

filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." Because petitioner did not obtain permission from the Eighth Circuit Court of Appeals to maintain the instant § 2254 application in this Court, the Court lacks authority to grant petitioner the relief he seeks. Rather than dismiss this action, the Court will transfer the petition to the United States Court of Appeals for the Eighth Circuit pursuant to 28 U.S.C. § 1631. See In re Sims, 111 F.3d 45, 47 (6th Cir. 1997); Coleman v. United States, 106 F.3d 339 (10th Cir. 1997); Liriano v. United States, 95 F.3d 119, 122-23 (2d Cir. 1996).

Therefore,

IT IS HEREBY ORDERED that no order to show cause shall issue as to respondent, because the instant petition is successive under 28 U.S.C. § 2244(b)(3)(A).

IT IS FURTHER ORDERED that petitioner's application for a writ of habeas corpus is **DENIED**, without prejudice.

IT IS FURTHER ORDERED that petitioner's motion for leave to proceed in forma pauperis [Doc. #9] is **DENIED** as moot.¹

IT IS FURTHER ORDERED that petitioner's motion for "mandamus order of release and discharge from the State of Missouri" [Doc. #10] is **DENIED**, without prejudice.

¹Plaintiff paid the \$5 filing fee on July 23, 2009.

IT IS FURTHER ORDERED that petitioner's pro se motion to pay filing fees [Doc. #11] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk shall **TRANSFER** the instant petition to the United States Court of Appeals for the Eighth Circuit pursuant to 28 U.S.C. § 1631.

Dated this 12th day of August, 2009.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE